

ST 02-0197-GIL 09/11/2002 POLLUTION CONTROL FACILITIES

Equipment which is used for the primary purpose of reducing or eliminating pollution can qualify for the Pollution Control Facilities exemption. Equipment which provides an economic benefit cannot qualify for the exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL).

September 11, 2002

Dear Xxxxx :

This letter is in response to your letter dated June 1, 2002 that we received on June 20, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

COMPANY was incorporated in the STATE on March 11th, 1971. We are applying for a certificate of authority/qualification to do work in your state. We clean grease out of restaurant and commercial kitchen hoods and exhaust vent systems. We will be using our own vehicles and equipment that has been purchased outside of your state to work with. Please respond in writing with a detailed letter confirming our services as taxable or non taxable, and if taxable, the state codes related to our services along with information on any city, county, or other tax that may apply. We would appreciate a response in a timely manner. Thank you for your assistance.

Section 3 of the Illinois Use Tax Act, 35 ILCS 105/3, imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. This means that tangible personal property, such as vehicles and equipment, brought into Illinois for use is subject to Illinois Use Tax. A credit will be given for sales/use tax that was properly due and paid to another State. See 86 Ill. Adm. Code 150.310(a)(3), enclosed.

We have received inquiries in the past concerning whether equipment used to clean and remove grease from commercial kitchens can qualify for the exemption afforded pollution control equipment. We cannot make such a determination without additional detailed information about the subject equipment or the vehicles. If you wish to obtain a binding Private Letter Ruling, please see the last paragraph of this letter. We are providing the following general information for your consideration.

We have enclosed a copy of 86 Ill. Adm. Code 130.335 concerning Pollution Control Facilities. The pollution control facilities exemption extends to "any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating,

preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (415 ILCS 5/1 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property." This exemption includes not only the pollution control equipment itself, but also replacement parts therefor.

It is important to note that it has been the Department's long-standing position that equipment whose primary purpose is to confer an economic benefit does not qualify for the pollution control facilities exemption. If the primary purpose of grease cleaning equipment is to remove the grease for reuse or recycling, then the primary purpose of such equipment would be to confer an economic benefit and not to control pollution. As a result, the equipment would be subject to Use Tax in Illinois.

In general, vehicles that primarily haul waste do not qualify for the pollution control exemption because their primary purpose is transportation, not pollution control. That is, the trucks or other vehicles are not being used primarily to treat waste or eliminate pollution. Rather, they are primarily being used to transport waste. However, a vehicle that is sold with pollution control equipment as an integral component part thereof and that is used primarily to control pollution could qualify. So long as a vehicle and the pollution control equipment that is an integral component part thereof is used primarily for an exempt purpose under the pollution control facilities exemption, the entire vehicle as a system may qualify for the exemption.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.